

Passed the Senate on March 31, 1993: Yeas 31, Nays 0; the Senate concurred in House amendments on May 23, 1993: Yeas 30, Nays 0; passed the House, with amendments, on May 21, 1993, by a non-record vote.

Approved June 12, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment, and as provided in §§ 7, 9 and 10.

CHAPTER 647

S.B. No. 1030

AN ACT

relating to creation and operation of a water bank and the establishment and collection of associated fees.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 15, Water Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. TEXAS WATER BANK

Sec. 15.701. *DEFINITIONS. In this subchapter:*

(1) "Deposit" means the placement of a water right or the right to use water in the water bank for transfer.

(2) "Depositor" means a person who deposits or has on deposit a water right in the water bank.

(3) "Person" includes but is not limited to any individual, corporation, organization, government, or governmental subdivision or agency, including the board, business trust, estate, trust, partnership, association, and any other legal entity.

(4) "Transfer" means the conveyance of a water right or the right to use water under a water right in any of the following manners:

(A) the conveyance of legal title to a water right; or

(B) a contract or option contract to allow use of a water right.

(5) "Water bank" or "bank" means the Texas Water Bank.

(6) "Water right" means a right acquired or authorized under the laws of this state to impound, divert, or use state water, underground water, or water from any source to the extent authorized by law.

Sec. 15.702. *CREATION OF BANK. The Texas Water Development Board shall establish the Texas Water Bank. The board shall administer the water bank to facilitate the transfer of water from all sources as necessary to provide sources of adequate water supplies for use within the State of Texas.*

Sec. 15.703. *OPERATION OF THE BANK; RULES. (a) The board may take all actions necessary to operate the water bank and to facilitate the transfer of water rights from the water bank for future beneficial use including but not limited to:*

(1) negotiating a sale price and terms acceptable to the depositor and purchaser;

(2) maintaining a registry of water bank deposits and those water users in need of additional supplies;

(3) informing water users in need of additional supply of water rights available in the bank;

(4) encouraging water right holders to implement water conservation practices and deposit the right to use the conserved water into the bank;

(5) establishing requirements for deposit of a water right into the water bank including minimum terms for deposit;

(6) purchasing, holding, and selling water rights in its own name;

(7) establishing regional water banks; and

(8) other actions to facilitate transfers.

(b) The board may adopt rules necessary for implementation of the Texas Water Bank.

(c) The board may contract with any person to achieve the purposes of this subchapter.

Sec. 15.704. TRANSFERS AND CONDITIONS. (a) Up to 50 percent of a water right may be deposited in the water bank for an initial term of up to 10 years, during which time the water right is exempt from cancellation by the commission under the terms of Subchapter E of Chapter 11 of this code. A water right is exempt from cancellation under this subsection only once even if it has been transferred or redeposited.

(b) The commission may not bring a cancellation action under Subchapter E of Chapter 11 of this code for a 10-year period following commission approval of any necessary actions relating to a water right which has been transferred while on deposit in the water bank.

Sec. 15.705. FEES. (a) The board may charge a transaction fee per transfer not to exceed \$500 to cover expenses of the board in operating the water bank. Political subdivisions of the state are exempt from any transfer fees established under this subsection. The board by rule shall establish fees in an amount necessary to pay for the ongoing administration of the water bank and shall consider the duration, type, and other aspects of the transfer. The transaction fee shall be paid by the depositor on either:

(1) a transfer of rights on deposit in the bank; or

(2) a transfer that occurs within one year of withdrawal of any water right deposited into the bank.

(b) The board shall place the fees in the water assistance fund where they shall be separately accounted for and used, with interest, only for the administration and operation of the water bank by the board.

Sec. 15.706. REPORTS. The commission and the board shall provide ready access by the other agency through manual or computer capabilities to all water rights permits, final water rights decisions, applications, amendments, contracts, computerized files, computer programs, and other information related to water rights and to the operation of the water bank. The commission shall provide the board with all notices of proposed water rights actions.

Sec. 15.707. WATER BANK ACCOUNT. (a) The water bank account is created as a special account in the water assistance fund and is composed of:

(1) money appropriated to the board for the program;

(2) fees collected by the board under this subchapter;

(3) money transferred to the account from the water assistance fund in Section 15.011(c) of this code;

(4) grants, contracts, gifts, or other such funds that the board may receive relating to this subchapter; and

(5) interest earned on the investment of money in the account.

(b) The money in the account may be used only for the administration and operation of the water bank by the board under this subchapter.

Sec. 15.708. OTHER TRANSFERS. Nothing in this subchapter shall prevent the sale or purchase of water or water rights by or through persons or entities outside of the water bank or the creation and operation of water banks by other persons to the extent allowed by law.

SECTION 2. The Texas Water Development Board shall report to the governor and members of the legislature concerning the implementation of the Texas Water Bank in December, 1994. The board shall coordinate with the Texas Water Commission and the Parks and Wildlife Department in preparing this report. The report shall identify any changes needed in the program authorized by this Act. The report shall identify ways to assist in providing flows to meet instream, water quality, fish and wildlife habitat, and bay

and estuary inflow needs through the water rights marketing and transfer process. After this first report, this topic shall be addressed in the biennial reports required by Section 6.156, Water Code.

SECTION 3. Section 15.011, Water Code, is amended by adding Subsection (c) to read as follows:

(c) The board may transfer money in the fund to the water bank account to be used by the board for administration and operation of the Texas Water Bank.

SECTION 4. Section 12.112, Water Code, is amended to read as follows:

Sec. 12.112. FEES: EXEMPTIONS. (a) The commission, *the board*, and the Parks and Wildlife Commission are exempted from payment of any filing, recording, or use fees required by this code.

(b) The board is exempt from payment of any other fees required by this code or any other statute relating to applications for water rights or amendments thereto or relating to water resources administration to the extent the board has not contracted for the sale of water under a water right on which such fees are based.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 13, 1993, by a viva-voce vote; the Senate concurred in House amendments on May 29, 1993, by a viva-voce vote; passed the House, with amendments, on May 26, 1993, by a non-record vote.

Approved June 12, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.

CHAPTER 648

H.B. No. 2079

AN ACT

relating to the enforcement of certain public health and safety laws.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 341.012(d), Health and Safety Code, is amended to read as follows:

(d) If the public health nuisance is not abated within the time specified by the notice, the local health authority shall notify the prosecuting attorney who received the copy of the original notice. The prosecuting attorney:

- (1) shall immediately institute proceedings to abate the public health nuisance; or
- (2) request the attorney general to institute the proceedings or provide assistance in the prosecution of the proceedings, including participation as an assistant prosecutor when appointed by the prosecuting attorney.

SECTION 2. Section 341.092, Health and Safety Code, is amended by amending Subsections (d), (f), and (i) and adding Subsection (j) to read as follows:

(d) If it appears that a person has violated, is violating, or is threatening to violate this chapter or a rule adopted under this chapter, the department, a county, ~~or~~ a municipality, *or the attorney general on request by the district attorney, criminal district attorney, county attorney, or, with the approval of the governing body of the municipality, the attorney for the municipality* may institute a civil suit in a district court for:

- (1) injunctive relief to restrain the person from continuing the violation or threat of violation;
- (2) the assessment and recovery of a civil penalty; or
- (3) both injunctive relief and a civil penalty.